

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**IN RE: MONITRONICS**

**INTERNATIONAL, INC.,**

**TELEPHONE CONSUMER**

**PROTECTION ACT LITIGATION**

**MDL NO. 1:13MD2493-IMK**

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**THIS DOCUMENT RELATES TO:**

*Bennett v. Monitronics International, Inc.,*  
Case No. 1:14-CV-00034

*Charvat v. Monitronics International, Inc.,*  
Case No. 1:14-CV-162

*Dolemba v. Monitronics International, Inc.,*  
Case No. 1:14-CV-00066

*Hodgin, et al. v. Monitronics, International, Inc.,*  
Case No. 1:13-CV-00263

*Mey v. Monitronics, International, Inc., et al.,*  
Case No. 5:11-CV-90

*Mey, et al. v. Honeywell International, Inc., et al.,*  
Case No. 1:14-CV-00059

*O'Shea v. Alliance Security, LLC, et al.,*  
Case No. 1:13-CV-00264

**DEFENDANT UTC FIRE AND SECURITY AMERICAS  
CORPORATION, INC.'S ANSWER TO PLAINTIFFS'  
SECOND AMENDED MASTER CONSOLIDATED COMPLAINT**

Defendant UTC Fire and Security Americas Corporation, Inc. (“UTCFS”) answers and avers as follows, the numbered paragraphs corresponding to the like-numbered paragraphs of the Second Amended Master Consolidated Complaint (Dkt. No. 255) (“SAMCC”). Section headings from the SAMCC are included below for ease of reference.

**I. INTRODUCTION AND STATEMENT OF THE CASE**

1. This Paragraph does not contain any allegations of fact about UTCFS that require a response. To the extent a response is required, “the Federal Trade Commission’s recent Biennial Report to Congress” is a written document that speaks for itself, and UTCFS lacks

knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

2. This Paragraph does not contain any allegations of fact about UTCFS that require a response. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

3. UTCFS admits that it is an alarm manufacturer. UTCFS denies that it enables telemarketing abuses through a compensation structure between itself, alarm-monitoring companies, and alarm dealers. The remainder of this Paragraph does not contain any allegations of fact about UTCFS that require a response. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this Paragraph and therefore denies the same.

4. UTCFS denies the allegations in this Paragraph with the exception that UTCFS permits the use of its trademark and trade names in certain circumstances.

5. This Paragraph contains conclusions of law to which no response is required. Moreover, this Paragraph does not contain any allegations of fact about UTCFS that require a response. To the extent a response is required, UTCFS denies the allegation that it benefits due to the sale by third parties of its products. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this Paragraph and therefore denies the same.

6. This Paragraph does not contain any allegations of fact about UTCFS that require a response. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies

the same.

7. To the extent the allegations in this Paragraph are directed toward UTCFS, UTCFS denies the allegations in this Paragraph. UTCFS also denies the allegations in this Paragraph to the extent they call for a legal conclusion. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations directed toward other defendants and therefore denies the same.

8. This Paragraph contains conclusions of law to which no response is required.

9. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph. UTCFS specifically denies that it is a “seller,” and that liability should be imputed to it in this matter.

10. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies that “comparatively small dealers placed millions of illegal telemarketing calls to sell UTCFS alarm-systems and generate alarm-monitoring business for Monitronics.” The remainder of this Paragraph does not contain any allegations of fact about UTCFS that require a response. To the extent a further response is required, UTCFS denies the remaining allegations in this Paragraph.

11. This Paragraph contains conclusions of law to which no response is required. Moreover, this Paragraph does not contain any allegations of fact about UTCFS that require a response. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations as to why plaintiffs bring this action. Further, the SAMCC is a written document that speaks for itself, and UTCFS denies any allegation inconsistent therewith.

## **II. JURISDICTION AND VENUE**

12. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

13. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

14. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

15. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

16. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

## **III. PARTIES AND DEFINITIONS**

17. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

- a. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- b. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- c. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- d. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

- e. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- f. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- g. UTCFS admits that Diana Mey is a resident of West Virginia.
- h. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

18. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

- a. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.
- b. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.
- c. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.
- d. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any

event, these allegations do not require a response as they do not relate to UTCFS.

e. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

f. UTCFS admits that it is a Delaware corporation, and that it is an alarm manufacturer. UTCFS denies that it does business as GE Security.

19. This Paragraph does not contain any allegations of fact about UTCFS that require a response.

a. This Paragraph does not contain any allegations of fact about UTCFS that require a response.

b. This Paragraph does not contain any allegations of fact about UTCFS that require a response.

c. This Paragraph contains conclusions of law to which no response is required. Moreover, this Paragraph does not contain any allegations of fact about UTCFS that require a response.

20. UTCFS admits the allegations in this Paragraph directed toward it. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations directed toward other defendants and therefore denies the same.

21. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

22. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

- a. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- b. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- c. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

#### **IV. APPLICABLE LAW**

**A. TCPA § 227(b) regulates autodialer and artificial or prerecorded voice calls to cellular and residential phones.**

23. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the statutory provisions of the TCPA speak for themselves, and

UTCFS denies any allegation inconsistent therewith.

24. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the statutory provisions of the TCPA speak for themselves, and UTCFS denies any allegation inconsistent therewith.

25. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the statutory provisions of the TCPA speak for themselves, and UTCFS denies any allegation inconsistent therewith.

26. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the statutory provisions of the TCPA speak for themselves, and UTCFS denies any allegation inconsistent therewith.

27. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the statutory provisions of the TCPA speak for themselves, and UTCFS denies any allegation inconsistent therewith.

28. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the statutory provisions of the TCPA speak for themselves, and UTCFS denies any allegation inconsistent therewith.

**B. TCPA § 227(c) regulates telemarketing calls made to phone numbers listed on the Do Not Call Registry.**

29. This Paragraph does not contain any allegations of fact about UTCFS that require a response, and contains conclusions of law to which no response is required. To the extent a response is required, the provisions of the TCPA's implementing regulations speak for themselves, and UTCFS denies any allegation inconsistent therewith.

30. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the provisions of the TCPA's implementing regulations speak for themselves, and UTCFS denies any allegation inconsistent therewith.

31. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the statutory provisions of the TCPA speak for themselves, and UTCFS denies any allegation inconsistent therewith.

32. This Paragraph does not contain any allegations of fact about UTCFS that require a response. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

**C. The TCPA imposes liability on entities that do not directly place illegal calls.**

33. This Paragraph contains conclusions of law to which no response is required.

34. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the FCC's Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Mem. and Order, is a written document that speaks for itself, and UTCFS denies any allegation inconsistent therewith.

35. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the FCC's Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Request of State Farm Mutual Automobile Insurance Company for Clarification of Declaratory Ruling, Declaratory Ruling, is a written document that speaks for itself, and UTCFS denies any allegation inconsistent therewith.

36. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, *In re Joint Pet. Filed by Dish Network* is a written document that speaks for itself, and UTCFS denies any allegation inconsistent therewith.

## **V. FACTUAL BASIS FOR THE COMPLAINT**

### **A. Allegations regarding calls placed to Plaintiffs.**

37. This Paragraph does not contain any allegations of fact about UTCFS that require a response. To the extent plaintiffs characterize the chart as allegations against UTCFS, UTCFS denies such allegations.

38. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

#### ***Plaintiff Jason Bennett***

39. Plaintiff Bennett does not assert claims against UTCFS and therefore no response to this Paragraph is required. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

40. Plaintiff Bennett does not assert claims against UTCFS and therefore no response to this Paragraph is required. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

41. Plaintiff Bennett does not assert claims against UTCFS and therefore no response to this Paragraph is required. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

42. Plaintiff Bennett does not assert claims against UTCFS and therefore no response to this Paragraph is required. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

*Plaintiff Edith Bowler*

43. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

44. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

a. UTCFS denies that UTCFS Authorized Dealers placed calls for the purpose of selling or promoting the sale of UTCFS alarm systems.

b. This Paragraph contains conclusions of law to which no response is required.

In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

45. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

46. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

47. UTCFS denies that Security One is the marketing department for GE. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this Paragraph and therefore denies the same.

48. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

49. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

*Plaintiff Philip J. Charvat*

50. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

51. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

52. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

53. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, to the extent these allegations do not relate to UTCFS, they do not require a response.

54. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

*Plaintiff Scott Dolemba*

55. Plaintiff Dolemba does not assert claims against UTCFS and therefore no response to this Paragraph is required. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

56. Plaintiff Dolemba does not assert claims against UTCFS and therefore no response to this Paragraph is required. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

57. Plaintiff Dolemba does not assert claims against UTCFS and therefore no response to this Paragraph is required. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

58. Plaintiff Dolemba does not assert claims against UTCFS and therefore no response to this Paragraph is required. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

*Plaintiffs Michael and Janet Hodgin*

59. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

60. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, and to the extent the allegations in this Paragraph are directed toward UTCFS, UTCFS denies those allegations. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations directed toward other defendants and therefore denies the same.

61. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

62. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as there is no allegation in this Paragraph that a call was made on UTCFS' behalf or that UTCFS benefitted from the call.

*Plaintiff James "Garry" Hough*

63. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

64. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

a. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

b. UTCFS denies that UTCFS Authorized Dealers placed calls for the purpose of selling or promoting the sale of UTCFS alarm systems.

c. This Paragraph contains conclusions of law to which no response is required.

In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

65. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

66. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

67. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

68. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

69. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

70. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

*Plaintiff Diana Mey*

71. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

72. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

73. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

74. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

a. This Paragraph contains conclusions of law to which no response is required.

In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

b. UTCFS denies that UTCFS Authorized Dealers placed calls for the purpose of selling or promoting the sale of UTCFS alarm systems.

c. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

d. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate

to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

e. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

75. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as there is no allegation in this Paragraph that a call was made on UTCFS' behalf or that UTCFS benefitted from the call.

#### **Mey allegations regarding VMS/Alliance, Monitronics, and UTCFS**

76. To the extent the allegations in this Paragraph are directed toward UTCFS, UTCFS denies the allegations in this Paragraph. UTCFS specifically denies that surveys were intended to generate alarm system sales for UTCFS. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations directed toward other defendants and therefore denies the same.

77. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

78. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

- a. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as there is no allegation in this Paragraph that a call was made on UTCFS' behalf or that UTCFS benefitted from the call.
- b. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- c. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- d. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- e. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- f. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- g. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- h. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- i. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- j. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

k. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

79. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

80. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

81. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

82. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

#### **Mey allegations regarding ISI Alarms, Monitronics, and Honeywell**

83. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

84. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

85. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

***Plaintiff Kerry O'Shea***

86. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

87. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

a. This Paragraph contains conclusions of law to which no response is required.

In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

b. UTCFS denies that UTCFS Authorized Dealers placed calls for the purpose of selling or promoting the sale of UTCFS alarm systems.

c. This Paragraph contains conclusions of law to which no response is required.

In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

88. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

89. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

90. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

91. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

92. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

93. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

**B. VMS/Alliance placed telemarketing calls in violation of the TCPA.**

94. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

95. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

96. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the

extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

**C. ISI Alarms placed telemarketing calls in violation of the TCPA.**

97. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

98. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

99. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

**D. UTCFS is liable for the TCPA violations of UTCFS Authorized Dealers.**

100. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

- a. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

b. This Paragraph contains conclusions of law to which no response is required.

To the extent a response is required, UTCFS denies the allegations in this Paragraph.

c. This Paragraph contains conclusions of law to which no response is required.

To the extent a response is required, UTCFS denies the allegations in this Paragraph.

d. This Paragraph contains conclusions of law to which no response is required.

To the extent a response is required, UTCFS denies the allegations in this Paragraph.

101. UTCFS denies the allegations in this Paragraph.

a. UTCFS denies that it “puts its products into the hands of consumers.” UTCFS admits that it does not sell the alarm systems to homeowners or businesses, and that third-parties resell or give the products away for free.

b. UTCFS admits that in certain circumstances, it sells its alarms to a middleman, EDIST Distribution Company, which then resells them to dealers.

c. UTCFS denies the allegations in this Paragraph.

d. UTCFS denies the vague allegation that it “deals directly” with dealers.

UTCFS admits that in approximately 2008 or 2009, it contacted Mr. Gotra to inquire as to whether he wished to use the GE Security trademark. UTCFS further admits that upon entering into an agreement with Mr. Gotra in or about June 2009, it was generally aware that VMS utilized telemarketing in its efforts to sell its own and Monitronics’ services. UTCFS denies the remaining allegations in this Paragraph.

- e. UTCFS admits that in certain circumstances, it extends special pricing and volume-purchase discounts to its third-party distributor, EDIST. UTCFS further admits that in certain circumstances, it seeks exclusivity arrangements with its dealers.
- f. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS admits that it enters into written agreements with certain entities authorizing the use of the GE Security trademark. UTCFS denies the remaining allegations in this Paragraph, in particular that outside of the use of the GE trademark, UTCFS exercises control over Authorized Dealers.
- g. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the agreement is a written contract that speaks for itself, and UTCFS denies any allegation inconsistent therewith.
  - (i) This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the agreement is a written contract that speaks for itself, and UTCFS denies any allegation inconsistent therewith.
  - (ii) This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the agreement is a written contract that speaks for itself, and UTCFS denies any allegation inconsistent therewith.
  - (iii) This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the agreement is a written

contract that speaks for itself, and UTCFS denies any allegation inconsistent therewith.

(iv) This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the agreement is a written contract that speaks for itself, and UTCFS denies any allegation inconsistent therewith.

(v) This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the agreement is a written contract that speaks for itself, and UTCFS denies any allegation inconsistent therewith.

- h. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the phrase “similar contracts” is insufficiently defined and thus UTCFS is unable to answer the allegations in this Paragraph.
- i. UTCFS admits that VMS bought products from third-party EDIST. In any event, this Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the remaining allegations in this Paragraph.
- j. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, the dealer agreements are written documents that speak for themselves, and UTCFS denies any allegation inconsistent therewith.
- k. UTCFS denies the allegations in this Paragraph.

1. This Paragraph contains conclusions of law to which no response is required.

To the extent a response is required, UTCFS denies the allegations in this Paragraph. UTCFS further denies the allegations in this paragraph to the extent that they allege that UTCFS possessed authority or control over Authorized Dealers', including VMS/Alliance's, alleged telemarketing activities or that Authorized Dealers sold UTCFS' security products.

m. UTCFS denies the allegations in this Paragraph.

n. UTCFS denies the allegations in this Paragraph.

o. UTCFS admits that it terminated VMS as a dealer on April 9, 2012. The court's partial summary judgment order is a written document that speaks for itself, and UTCFS denies any allegation inconsistent therewith.

p. UTCFS denies the allegations in this Paragraph. UTCFS further denies the allegations in this Paragraph to the extent that they allege that UTCFS possessed authority or control over Authorized Dealers', including VMS/Alliance's, alleged telemarketing activities or that Authorized Dealers sold UTCFS' security products.

**E. Monitronics is liable for the TCPA violations of Monitronics Authorized Dealers.**

102. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

a. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate

to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

b. This Paragraph contains conclusions of law to which no response is required.

In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

c. This Paragraph contains conclusions of law to which no response is required.

In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

d. This Paragraph contains conclusions of law to which no response is required.

In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

103. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

a. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In

any event, these allegations do not require a response as they do not relate to UTCFS.

- b. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.
- c. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.
- d. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.
  - (i) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.
  - (ii) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

(iii) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

(iv) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

(v) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

(vi) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

(vii) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

(viii) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies

the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

(ix) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

- e. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- f. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- g. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- h. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- i. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
  - (i) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

(ii) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

(iii) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

(iv) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

(v) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

- j. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.
- k. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In

any event, these allegations do not require a response as they do not relate to UTCFS.

1. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- m. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.
  - (i) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.
  - (ii) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.
  - (iii) UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

- n. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.
- o. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

**F. Honeywell is liable for the TCPA violations of [Honeywell] Authorized Dealers.**

104. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

105. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

106. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

107. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

108. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

109. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the

extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

110. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

111. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

112. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

113. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

114. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same. In any event, these allegations do not require a response as they do not relate to UTCFS.

115. This Paragraph contains conclusions of law to which no response is required. In any event, these allegations do not require a response as they do not relate to UTCFS. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

## VI. CLASS ACTION ALLEGATIONS

116. This Paragraph concerns plaintiffs' attempts to bring a class action. UTCFS denies that a class action is appropriate in this matter.

a. This Paragraph concerns plaintiffs' attempts to bring a class action. UTCFS denies that a class action is appropriate in this matter.

(i) This Paragraph concerns plaintiffs' attempts to bring a class action.

UTCFS denies that a class action is appropriate in this matter.

(ii) This Paragraph concerns plaintiffs' attempts to bring a class action.

UTCFS denies that a class action is appropriate in this matter.

(iii) This Paragraph concerns plaintiffs' attempts to bring a class action.

UTCFS denies that a class action is appropriate in this matter.

b. This Paragraph concerns plaintiffs' attempts to bring a class action. UTCFS denies that a class action is appropriate in this matter.

c. This Paragraph concerns plaintiffs' attempts to bring a class action. UTCFS denies that a class action is appropriate in this matter.

(i) This Paragraph concerns plaintiffs' attempts to bring a class action.

UTCFS denies that a class action is appropriate in this matter.

(ii) This Paragraph concerns plaintiffs' attempts to bring a class action.

UTCFS denies that a class action is appropriate in this matter.

(iii) This Paragraph concerns plaintiffs' attempts to bring a class action.

UTCFS denies that a class action is appropriate in this matter.

117. This Paragraph concerns plaintiffs' attempts to bring a class action. UTCFS denies that a class action is appropriate in this matter.

118. This Paragraph does not contain any allegations of fact about UTCFS that require a response.

- a. This Paragraph does not contain any allegations of fact about UTCFS that require a response.
- b. This Paragraph does not contain any allegations of fact about UTCFS that require a response.
- c. This Paragraph does not contain any allegations of fact about UTCFS that require a response.

119. UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

120. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this Paragraph and therefore denies the same.

121. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

122. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

123. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

124. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

125. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

## **VII. LEGAL CLAIMS**

### **Count One:**

#### **Violation of § 227(b)(1) for calls made using an ATDS or artificial/prerecorded voice**

126. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

### **Count Two:**

#### **Violation of § 227(c) for calls placed to numbers listed on the Do Not Call Registry**

127. This Paragraph contains conclusions of law to which no response is required. To the extent a response is required, UTCFS denies the allegations in this Paragraph.

## **VIII. RELIEF SOUGHT**

1. UTCFS denies that plaintiffs are entitled to any relief.
2. UTCFS denies that plaintiffs are entitled to any relief.
3. UTCFS denies that plaintiffs are entitled to any relief.
4. UTCFS denies that plaintiffs are entitled to any relief.
5. UTCFS denies that plaintiffs are entitled to any relief.

## **AFFIRMATIVE DEFENSES**

By way of further response, UTCFS alleges the following affirmative defenses to the allegations and claims in the SAMCC. UTCFS reserves its right to amend its Answer to assert other defenses as they may become known. By setting forth any particular defense below, UTCFS does not allege or admit that it has the burden of proof and/or persuasion with respect to any of these matters, and does not assume the burden of proof and/or persuasion as to any matters to which plaintiffs bear such a burden.

**First Affirmative Defense**

The SAMCC fails to state facts sufficient to state a cause of action against UTCFS.

**Second Affirmative Defense**

Plaintiffs lack standing to assert the claims alleged in the SAMCC.

**Third Affirmative Defense**

This Court lacks personal jurisdiction over UTCFS.

**Fourth Affirmative Defense**

UTCFS alleges that plaintiffs have expressly or impliedly consented to and approved all of the acts and omissions about which plaintiffs now complain. Accordingly, plaintiffs are barred from pursuing claims alleged in the SAMCC.

**Fifth Affirmative Defense**

With respect to claims asserting violations of 47 U.S.C. § 227(b)(1), UTCFS asserts that plaintiffs provided prior express written consent.

**Sixth Affirmative Defense**

With respect to claims asserting violations of 47 U.S.C. § 227(b)(1), UTCFS asserts that plaintiffs maintained an established business relationship with the caller.

**Seventh Affirmative Defense**

With respect to claims asserting violations of 47 U.S.C. § 227(c), UTCFS asserts that plaintiffs' claims are barred because they encouraged the telemarketing and did not inform the telemarketer that they wished to be placed on an internal do not call list.

**Eighth Affirmative Defense**

UTCFS alleges that by plaintiffs' conduct, representations, and omissions, upon which UTCFS detrimentally relied, plaintiffs are equitably estopped from asserting any claim for relief against UTCFS.

**Ninth Affirmative Defense**

UTCFS did not "benefit" from any telemarketing, as that term is contemplated by the Telephone Consumer Protection Act.

**Tenth Affirmative Defense**

UTCFS alleges that no relief may be obtained by plaintiffs by reason of the doctrine of unclean hands.

**Eleventh Affirmative Defense**

UTCFS alleges that plaintiffs are not entitled to any relief because UTCFS' conduct did not proximately cause any damages, injury or loss to plaintiffs.

**Twelfth Affirmative Defense**

UTCFS is informed and believes, and on that basis alleges, that granting plaintiffs' demand would result in unjust enrichment, as plaintiffs would receive more money than plaintiffs are entitled to receive.

**Thirteenth Affirmative Defense**

UTCFS alleges that at the times and places, and under the circumstances alleged, the damages to plaintiffs, if any, were caused solely by the acts or omissions of one or more third persons over whom UTCFS had no control, and for which UTCFS is not responsible or liable to plaintiffs. UTCFS dealers are not its agents. UTCFS did not assent to or ratify any dealer's conduct. No entity acted "on behalf of" UTCFS as that term is contemplated by the Telephone Consumer Protection Act. UTCFS reserves the right, without obligation, to supplement this

affirmative defense to identify specific third-parties whose conduct caused plaintiffs' damages, if any.

#### **Fourteenth Affirmative Defense**

UTCFS alleges that the losses or damages, if any, of which plaintiffs complain were directly, proximately and entirely caused and contributed to by the negligence, culpable conduct or fault of others, whether or not named as parties to this action. If plaintiffs are entitled to recover from UTCFS at all for damages (which is denied), such recovery is diminished to the extent the damages alleged in the SAMCC and any and all subsequent amendments and/or supplements thereto are attributable to the negligence, culpable conduct or fault of others. UTCFS reserves the right, without obligation, to supplement this affirmative defense to identify specific third-parties whose conduct caused plaintiffs' damages, if any.

#### **Fifteenth Affirmative Defense**

UTCFS is informed and believes, and on that basis alleges, that to the extent plaintiffs have suffered any damages as a result of any alleged activities of UTCFS (which UTCFS denies), plaintiffs' damages are attributable, in whole or in part, to their own conduct in failing to take action to mitigate or minimize such purported damages, as required by law.

#### **Sixteenth Affirmative Defense**

Plaintiffs' claims should be dismissed to the extent they are barred by the doctrine of laches.

#### **Seventeenth Affirmative Defense**

Plaintiffs' claims are barred, in whole or in part, by the applicable statute(s) of limitation.

**Eighteenth Affirmative Defense**

UTCFS alleges that by conduct, representations, and omissions, plaintiffs have waived, relinquished, and/or abandoned any claim for relief against UTCFS respecting the matters that are the subject of the SAMCC.

**Nineteenth Affirmative Defense**

Plaintiffs are equitably estopped from seeking recovery to the extent they purchased the products marketed to them via telemarketing.

**Twentieth Affirmative Defense**

The damages plaintiffs seek against UTCFS violate the Due Process Clause of the United States Constitution, and constitute excessive fines in violation of the Eighth Amendment of the United States Constitution.

**Twenty-First Affirmative Defense**

In the alternative, with respect to claims asserting violations of 47 U.S.C. § 227(c), UTCFS asserts that it has established and implemented, with due care, reasonable practices and procedures effectively to prevent telephone solicitations in violation of this provision.

**Twenty-Second Affirmative Defense**

Plaintiffs' claims are barred because they have failed to join necessary and indispensable parties in this action.

**Twenty-Third Affirmative Defense**

Plaintiffs' claims against UTCFS are barred in whole, or in part, by the TCPA's "safe harbor" provision or other "safe harbor" defenses.

**Twenty-Fourth Affirmative Defense**

Plaintiffs' claims against UTCFS are barred because the calls about which they complain constitute commercial speech protected by the First Amendment to the United States Constitution and the imposition of liability on UTCFS for such calls would violate its First Amendment rights.

**Twenty-Fifth Affirmative Defense**

Plaintiffs' claims are barred because UTCFS did not engage in willful and/or knowing misconduct.

**Twenty-Sixth Affirmative Defense**

To the extent UTCFS is liable to plaintiffs or the proposed classes they seek to represent, UTCFS is entitled to indemnification from one or more parties or third parties.

WHEREFORE, UTCFS prays for judgment as follows:

1. That plaintiffs take nothing by reason of their Complaint;
2. That judgment be entered against plaintiffs and in favor of UTCFS;
3. That UTCFS recover all expenses, costs, and attorneys' fees in connection with this lawsuit; and
4. That the Court grant UTCFS such other and further relief as it deems just and proper.

December 8, 2014

Respectfully submitted,

/s/ Gordon H. Copland

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**CERTIFICATE OF SERVICE**

I hereby certify that, on the 8th day of December, 2014, I electronically filed "Defendant UTC Fire and Security Americas Corporation, Inc.'s Answer to Plaintiffs' Second Amended Master Consolidated Complaint" with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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I also hereby certify that I served a true and accurate copy of the foregoing “Defendant UTC Fire and Security Americas Corporation, Inc.’s Answer to Plaintiffs’ Second Amended Master Consolidated Complaint” by United States Mail, First Class, postage prepaid, upon the following *pro se* person:

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